IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24 of 2005

Between:

J.Siva Rami Reddy S/o.Rama Koti Reddy
Markapur Municipality, Marakapuram,
Prakasam Dist.

..... PETITIONER

AND

1 Govt. of A.P., rep by its Secretary Municipal Administration
Hyderabad.
2 The Commissioner and Director, Municipal Administration, Hyderabad.
3 The Regional Joint Director, Municipal Administration, Guntur.
4 The Commissioner, (FAC), Markapur Municipality, Markapuram,
Prakasam District.
5 The Sub-Inspector of Police Markapur P.S.,
Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ or order more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the action of the 4th respondent in without getting any valid permission from the competent authorities, straight away giving police complaint to the 5th respondent and also the action of the respondents to proceed on presumptions initiated criminal proceedings without their being any valid enquiry into the matter and without their being any valid material i.e., either enquiry report or resolution of the General Body Council to that effect as illegal arbitrary and violative of constitutional provisions and also against the principles of natural justice of equity and fair play and consequently direct the respondents to initiate proper enquiry to the matter of so called misappropriation of funds by giving an opportunity of being heard and explanation to the petitioner and to pass such other order or orders.

Counsel for the Petitioner:MR.SITA RAM CHAPARLA

Counsel for the Respondent Nos.1 to 3 and 5: GP FOR MUNICIPAL ADMINISTRATION.

Counsel for the Respondent No.4:MR.S.NAGESWARA REDDY

The Court at the admission stage made the following Order:

This writ petition is filed to declare the action of the fourth respondent in not getting any valid permission from the competent authorities, straight away giving police complaint to the fifth respondent and also the action of the respondents to proceed on presumption of initiation of criminal proceedings without there being any valid enquiry as illegal and arbitrary.

Learned counsel for the petitioner contended that under Section 375 of the A.P. Municipalities Act (for short 'the Act') when the chairperson any member, the Commissioner or Municipal Health Officer or any other officer is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Government, and prays to admit the writ petition.

Learned Government Pleader appearing for the respondents brought to the notice of this Court that the Commissioner and Director of Municipal Administration-second respondent through memo dated 20.12.2004 has accorded permission to file a criminal case against the petitioner, and hence, there is no need to interdict the police investigation for the irregularities alleged to have been committed by the petitioner. He further submitted that the present Municipal Commissioner (FAC) Markapur Municipality lodged a complaint on 22.12.2004 and basing on the said complaint, the police registered a crime under Sections 403 and 409 I.P.C.

Under Section 375 of the Act, the offence committed by any of the persons mentioned above shall not be taken cognizance of by any Court except with the previous sanction of the Government. In this case, previous sanction was already obtained from the second respondent vide proceedings dated 20.12.2004 directing the Municipal Commissioner to file a criminal case against the petitioner and therefore, the act of lodging a complaint by the Municipal Commissioner (FAC) is completely in accordance with law. It is the statutory duty of the police to conduct investigation. Therefore, there are absolutely no grounds to issue Mandamus against the respondents.

The writ petition is devoid of merits and it is accordingly dismissed at the stage of admission. No costs.

19.01.2005

usd

To

1 The Secretary, Municipal Administration, Govt. of A.P.,
Hyderabad.
2 The Commissioner and Director, Municipal Administration, Hyderabad.
3 The Regional Joint Director, Municipal Administration, Guntur.
4 The Commissioner, (FAC), Markapur Municipality, Markapuram,
Prakasam District.
5 The Sub-Inspector of Police Markapur P.S.,
Prakasam District.

6 Two CCs to G.P. for Municipal Administration, A.P.High Court

Buildings, Hyderabad (OUT).

7. Two CD copies.